

IC 4-36

ARTICLE 36. TYPE II GAMING IN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES

IC 4-36-1

Chapter 1. General Provisions

IC 4-36-1-1

Exemption from federal gambling statute

Sec. 1. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through the elected and qualified members of the legislature, declares that the state is exempt from 15 U.S.C. 1172.

As added by P.L.95-2008, SEC.13.

IC 4-36-1-2

Shipments of gambling games authorized

Sec. 2. All shipments of gambling games authorized under this article to distributors and retailers in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into the state of Indiana.

As added by P.L.95-2008, SEC.13.

IC 4-36-1-3

Application of article

Sec. 3. This article does not apply to the following:

- (1) The Indiana state lottery established under IC 4-30.
- (2) Pari-mutuel horse racing under IC 4-31.
- (3) Charity gaming under IC 4-32.2.
- (4) Riverboat gambling under IC 4-33.
- (5) Wagering on gambling games under IC 4-35.

As added by P.L.95-2008, SEC.13. Amended by P.L.255-2015, SEC.58.

IC 4-36-1-4

Electronic gaming devices not authorized by article

Sec. 4. Nothing in this article may be construed to authorize the use of an electronic gaming device in a type II gambling operation.

As added by P.L.95-2008, SEC.13.

IC 4-36-2

Chapter 2. Definitions

IC 4-36-2-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-2

"Commission"

Sec. 2. "Commission" means the alcohol and tobacco commission created by IC 7.1-2-1-1.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-3

"Deal"

Sec. 3. "Deal" means each separate game or series of pull tab tickets with a specific form number and a unique serial number.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-4

"Department"

Sec. 4. "Department" refers to the department of state revenue.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-5

"Distributor"

Sec. 5. "Distributor" means a person licensed to distribute pull tabs, punchboards, and tip boards under IC 4-32.2.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-6

"Electronic gaming device"

Sec. 6. "Electronic gaming device" has the meaning set forth in IC 35-45-5-1.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-7

"Flare"

Sec. 7. "Flare" means the board or placard that accompanies each deal of pull tabs on which the following information is printed:

- (1) The game name.
- (2) The manufacturer's name or distinctive logo.
- (3) The form number.
- (4) The ticket count.
- (5) The prize structure.
- (6) The cost per play.

(7) The game serial number.
As added by P.L.95-2008, SEC.13.

IC 4-36-2-8

"Form number"

Sec. 8. "Form number" means the unique number or alphanumeric code that identifies a game's cost per play, ticket count, payout structure, and extended payout structure, if any.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-9

"Gross receipts"

Sec. 9. (a) "Gross receipts" means the total amount of money exchanged for the purchase of:

- (1) pull tabs;
- (2) punchboards;
- (3) tip boards; and
- (4) raffle tickets purchased in a qualified drawing in which the retailer retains the profits of the qualified drawing;

by the patrons of a type II gaming operation.

(b) The term does not include any amount wagered on qualified drawings conducted by a retailer under IC 4-36-5-1(c) in which the total amount wagered is returned to the retailer's patrons in the form of prizes.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.14; P.L.19-2011, SEC.1.

IC 4-36-2-10

"Licensed premises"

Sec. 10. "Licensed premises" has the meaning set forth in IC 7.1-1-3-20.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-11

"Licensee"

Sec. 11. "Licensee" means a person holding a license issued under this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-12

"Manufacturer"

Sec. 12. "Manufacturer" means a person licensed to manufacture pull tabs, punchboards, and tip boards under IC 4-32.2.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-13

"Person"

Sec. 13. "Person" means an individual, a sole proprietorship, a

partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-13.5

"Profits"

Sec. 13.5. "Profits" means the difference between:

- (1) the total amount of money exchanged for the purchase of a raffle ticket in a qualified drawing; minus
- (2) the total cost of the prizes awarded in the qualified drawing.

As added by P.L.19-2011, SEC.2.

IC 4-36-2-14

"Pull tab"

Sec. 14. "Pull tab" has the meaning set forth in IC 4-32.2-2-22.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-15

"Punchboard"

Sec. 15. "Punchboard" has the meaning set forth in IC 4-32.2-2-23.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-15.5

"Qualified drawing"

Sec. 15.5. "Qualified drawing" means a random drawing to award one (1) or more prizes that is conducted in the manner required by IC 4-36-5-1(c).

As added by P.L.108-2009, SEC.15.

IC 4-36-2-16

"Raffle"

Sec. 16. "Raffle" means the selling of tickets or chances to win a prize awarded through a random drawing.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-17

"Retailer"

Sec. 17. "Retailer" means a person that:

- (1) is licensed to sell alcoholic beverages under IC 7.1-3 to customers for consumption on the licensed premises of the person's tavern; and
- (2) holds an endorsement to conduct type II gambling games that was issued by the commission under IC 4-36-4.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-18

"Tavern"

Sec. 18. "Tavern" means that part of a licensed premises:

- (1) that is a separate room from the public spaces of the licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16);
- (2) that is used primarily for the serving of alcoholic beverages by the drink to the general public; and
- (3) where food service is secondary to the primary use described in subdivision (2) in the amount of sales.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-19

"Tip board"

Sec. 19. "Tip board" has the meaning set forth in IC 4-32.2-2-28.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-20

"Type II gambling game"

Sec. 20. "Type II gambling game" means a pull tab, punchboard, or tip board game approved by the Indiana gaming commission for play under IC 4-32.2.

As added by P.L.95-2008, SEC.13.

IC 4-36-2-21

"Type II gambling operation"

Sec. 21. "Type II gambling operation" means the conduct of gambling games authorized under this article in a tavern.

As added by P.L.95-2008, SEC.13.

IC 4-36-3

Chapter 3. Powers and Duties of the Commission

IC 4-36-3-1

Administration and enforcement of type II gaming

Sec. 1. (a) The commission shall supervise and administer type II gambling operations conducted in Indiana under this article.

(b) The commission shall enforce this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-3-2

Investigative powers

Sec. 2. For purposes of conducting an investigation or a proceeding under this article, the commission may do the following:

- (1) Administer oaths.
- (2) Take depositions.
- (3) Issue subpoenas.
- (4) Compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

As added by P.L.95-2008, SEC.13.

IC 4-36-3-3

Rules

Sec. 3. (a) The commission may adopt rules under IC 4-22-2 for the establishment, implementation, and operation of type II gambling games and to ensure that the type II gambling operations are consistently operated in a fair and honest manner.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 for the administration of this article if the commission determines that:

- (1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
- (2) an emergency rule is likely to address the need.

As added by P.L.95-2008, SEC.13.

IC 4-36-3-4

Authority to issue endorsements enabling retailers to participate in type II gaming

Sec. 4. (a) The commission has the sole authority to issue an endorsement or a license to a person authorizing the person to sell, distribute, or manufacture type II gambling games under this article.

(b) The commission may not limit the number of persons licensed under this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-4

Chapter 4. Licensing

IC 4-36-4-1

Retailer's endorsement

Sec. 1. (a) Subject to section 13 of this chapter, the commission shall issue a retailer's endorsement to an applicant that satisfies the requirements of this article. A retailer's endorsement allows the retailer to conduct type II gaming at only the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An applicant must obtain a separate retailer's endorsement for each tavern at which the applicant wishes to conduct type II gaming.

(b) The commission shall affix an endorsement issued under this chapter to the retailer's alcoholic beverage permit that authorizes the retailer to sell alcoholic beverages at the tavern specified in the retailer's application under section 3(b)(2) of this chapter. An endorsement issued under this chapter is valid for one (1) year.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-2

Qualifications to apply for a retailer's endorsement

Sec. 2. (a) To qualify for a retailer's endorsement, a person must operate a tavern licensed under IC 7.1-3 to sell alcoholic beverages to customers for consumption on the premises of the tavern.

(b) The following may not apply for a retailer's endorsement under this article:

- (1) A person holding a horse track permit under IC 7.1-3-17.7.
- (2) A licensed owner of a riverboat licensed under IC 4-33.
- (3) An operating agent who operates a riverboat in a historic hotel district under IC 4-33.
- (4) A qualified organization (as defined in IC 4-32.2-2-24).
- (5) An organization that is eligible to apply for a charity gaming license under IC 4-32.2.
- (6) A person holding a gambling game license issued under IC 4-35-5.
- (7) A person holding a permit issued under IC 7.1-3 for a licensed premises that is not a tavern, including holders of the following:
 - (A) A boat permit.
 - (B) A hotel permit.
 - (C) A fraternal club permit.
 - (D) A resort hotel permit.
 - (E) An airport permit.
 - (F) A satellite facility permit.
 - (G) A microbrewery permit.
 - (H) A social club permit.
 - (I) A civic center permit.
 - (J) A catering hall permit.

- (K) A dining car permit.
- (L) A temporary event permit.
- (M) A permit for any of the following facilities:
 - (i) A stadium.
 - (ii) An automobile race track.
 - (iii) A concert hall.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-3

Application

Sec. 3. (a) To obtain a retailer's endorsement, a person must submit an application form to the commission.

(b) An application submitted under this section must include at least the following:

- (1) The name and address of the applicant and of any person holding at least a ten percent (10%) interest in the applicant.
- (2) The name and address of the tavern for which the applicant seeks a retailer's endorsement.
- (3) The applicant's consent to credit investigations and criminal record searches.
- (4) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(c) An applicant must furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

(d) The commission shall review the applications for a retailer's endorsement under this chapter and shall inform each applicant of the commission's decision concerning the issuance of a retailer's endorsement.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-4

Investigative costs

Sec. 4. The costs of investigating an applicant for a retailer's endorsement under this chapter shall be paid from the initial endorsement fee paid by the applicant under section 5 of this chapter.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-5

Initial fees; renewal fees

Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual endorsement or license under this chapter:

- (1) Two hundred fifty dollars (\$250) for a retailer's endorsement to conduct a type II gambling operation in the retailer's tavern.
- (2) One thousand dollars (\$1,000) for a distributor's license.

(3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual endorsement or license under this chapter:

(1) The following amounts for a retailer's endorsement:

(A) One hundred dollars (\$100) in the case of a retailer that had adjusted gross revenues of less than twenty-five thousand dollars (\$25,000) in the previous year.

(B) Two hundred fifty dollars (\$250) in the case of a retailer that had adjusted gross revenues of at least twenty-five thousand dollars (\$25,000) but less than fifty thousand dollars (\$50,000) in the previous year.

(C) Five hundred dollars (\$500) in the case of a retailer that had adjusted gross revenues of at least fifty thousand dollars (\$50,000) but less than one hundred thousand dollars (\$100,000) in the previous year.

(D) One thousand dollars (\$1,000) in the case of a retailer that had adjusted gross revenues of at least one hundred thousand dollars (\$100,000) in the previous year.

(2) One thousand dollars (\$1,000) for a distributor's license.

(3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(c) A retailer shall report the amount of the retailer's adjusted gross receipts on the form required to renew the retailer's endorsement. The renewal fee required under subsection (b)(1) must be submitted with the renewal form.

(d) The commission shall deposit all fees collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.16.

IC 4-36-4-6

Determination of adjusted gross revenue

Sec. 6. (a) For the purposes of section 5(b)(1) of this chapter, a retailer's adjusted gross revenue is an amount equal to the difference between:

(1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus

(2) the sum of any amounts deducted under subsection (b) in the preceding year.

(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

(1) An amount equal to the total value of the prizes awarded in type II gambling games in the preceding year.

(2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.

(3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.17.

IC 4-36-4-7

Authority to issue a distributor's license

Sec. 7. The commission may issue a distributor's license to an applicant who meets the requirements of this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-8

Authority to issue a manufacturer's license

Sec. 8. The commission may issue a manufacturer's license to an applicant who meets the requirements of this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-9

Applications for distributor's license or a manufacturer's license

Sec. 9. (a) To obtain a distributor's license or a manufacturer's license, a person must submit an application to the commission on a form prescribed by the commission. An applicant shall furnish all information required by the commission.

(b) To qualify for a distributor's license or a manufacturer's license under this chapter, a person must also be a licensed distributor or manufacturer under IC 4-32.2.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-10

Background investigations

Sec. 10. The commission shall conduct or cause to be conducted a background investigation of each applicant for an endorsement or license issued under this chapter.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-11

Criminal history records

Sec. 11. Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the endorsement or license and for any subsequent license term.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-12

Authority to require applications to be sworn or affirmed before

a notary public

Sec. 12. The commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-13

Restrictions on the issuance of endorsements or licenses

Sec. 13. The commission may not issue an endorsement or a license to an applicant if any of the following apply:

- (1) The applicant has knowingly made a false statement of material fact to the commission.
- (2) The applicant is found by the commission to lack the necessary financial stability or responsibility for holding an endorsement or license issued under this chapter.
- (3) The applicant, if an individual, is less than twenty-one (21) years of age on the date on which the application is received by the commission.
- (4) The applicant is on the most recent tax warrant list.
- (5) The applicant, if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony within the ten (10) years preceding the date of the endorsement or license application, unless the commission determines that:
 - (A) the individual has been pardoned or the individual's civil rights have been restored;
 - (B) after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or
 - (C) the individual has terminated a relationship with a person whose actions directly contributed to the conviction or entry of the plea.
- (6) The applicant fails to provide all materials requested by the commission.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-14

Confidentiality of credit and security information

Sec. 14. Credit and security investigation information submitted in connection with an application for an endorsement or a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-15

Written approval required to transfer an endorsement or license

Sec. 15. An endorsement or a license issued under this article may not be transferred without prior written approval of the commission.

As added by P.L.95-2008, SEC.13.

IC 4-36-4-16

Operations under a pending revocation of an endorsement or license

Sec. 16. If the commission proposes to revoke an endorsement or a license issued under this chapter, the licensee may continue to operate under the endorsement or license until the commission has made a decision and all administrative appeals have been exhausted by the licensee.

As added by P.L.95-2008, SEC.13.

IC 4-36-5

Chapter 5. Type II Gambling Operations

IC 4-36-5-1

Retailers authorized to offer type II gambling games and qualified drawings; conduct of qualified drawings

Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

(b) A retailer's endorsement also authorizes a retailer to conduct qualified drawings on the premises of the retailer's tavern. A qualified drawing must be conducted in the manner required by this section.

(c) A qualified drawing is subject to the following rules and limitations:

(1) The purchase price for a chance to win a prize in a qualified drawing may not exceed five dollars (\$5).

(2) This subdivision does not apply to a qualified drawing conducted under subdivision (12). The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars (\$300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(3) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

(D) Weekly drawings must be held on regular seven (7) day intervals posted in the information required by subdivision (10).

(E) Monthly drawings must be held on regular monthly intervals posted in the information required by subdivision (10).

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(4) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(5) A retailer may profit from conducting a qualified drawing.

(6) A retailer may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

(7) If no winning ticket is drawn in a qualified drawing, a retailer may:

(A) carry the prize over to a later drawing in accordance

with this section; or

(B) continue drawing tickets until a winner is drawn.

(8) If a patron who purchased a winning ticket is not present to claim a prize at the time of the qualified drawing, a retailer shall hold the prize for the winning patron in accordance with the rules of the retailer.

(9) In order to comply with subdivision (8), a retailer shall obtain the name, address, and telephone number of each patron who purchases a ticket for a qualified drawing.

(10) A retailer must conspicuously display the following information concerning each qualified drawing conducted by the retailer:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(E) The rules of the retailer concerning the following:

(i) Qualified drawings in which no winning ticket is drawn.

(ii) The period that the retailer will hold a prize for a winning patron who was not present to claim the prize at the time of the qualified drawing.

(F) Whether:

(i) the retailer will retain the profits realized from conducting the qualified drawing; or

(ii) the amount wagered on the qualified drawing will be returned to the retailer's patrons in the form of prizes.

(11) Notwithstanding any other provision of this chapter, a retailer must continue drawing tickets in a monthly drawing until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(12) The following rules apply only to a qualified drawing from which the retailer retains the profits:

(A) Cash may not be awarded to the winner of the qualified drawing.

(B) All prizes must be in the form of merchandise other than alcohol or tobacco.

(C) The maximum amount of wagers that a retailer may accept in the course of conducting the qualified drawing is five hundred dollars (\$500).

(d) When the winning patron is not present at the time of the qualified drawing to claim a prize, the retailer shall award the prize in the following manner:

(1) The retailer shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has the time permitted by the rules of the retailer, which must be at least seventy-two (72) hours, to

claim the prize.

(2) The winning patron must appear at the retailer's premises within the time permitted by the rules of the retailer to claim the prize in person.

(3) The retailer shall verify the identity of the winning patron and award the prize.

(e) This subsection applies when the rules of a retailer require the retailer to carry over a prize when no winning ticket is drawn and when a winning patron fails to claim a prize in the manner required by subsection (d). The retailer shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) Subject to the prize limits set forth in subsection (c)(2), a retailer may carry over a prize under subdivision (1) not more than fourteen (14) times. On the fourteenth calendar day to which a prize has been carried over, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(3) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(4) Subject to the prize limits set forth in subsection (c)(2), a retailer may carry over a prize under subdivision (3) not more than one (1) time. On the day that the retailer conducts a weekly drawing for the carried over prize, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(f) The following apply to a retailer that carries over a prize under subsection (e):

(1) A retailer may conduct the daily drawing regularly scheduled for a calendar day occurring during the time that the retailer holds a prize for a winning patron who was not present at the time of a qualified drawing.

(2) If an unclaimed prize from a daily drawing is carried over to a particular date, the retailer may not conduct the regular daily drawing that would otherwise be permitted under this section on that date.

(3) If an unclaimed prize from a weekly drawing is carried over to a particular date, the retailer may not conduct the regular weekly drawing that would otherwise be permitted under this section on that date.

(4) Subject to the prize limits set forth in subsection (c)(2), a retailer may accept additional entries to a drawing for a carried over prize.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.18; P.L.19-2011, SEC.3.

IC 4-36-5-2

Gaming restricted to taverns

Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games and qualified drawings conducted under section 1(c) of this chapter may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.19; P.L.19-2011, SEC.4.

IC 4-36-5-3

Acquisition of type II gambling games and drawing tickets from licensed distributors

Sec. 3. (a) A retailer must obtain a type II gambling game or a ticket for a qualified drawing from a distributor licensed by the commission under this article.

(b) Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games and tickets for qualified drawings purchased by the distributor from a manufacturer that is domiciled in Indiana.

(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

(1) No manufacturer domiciled in Indiana is licensed under this article.

(2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.

(3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.

As added by P.L.95-2008, SEC.13. Amended by P.L.19-2011, SEC.5.

IC 4-36-5-4

Financial record requirements

Sec. 4. (a) A retailer shall maintain accurate records of all financial aspects of the retailer's type II gambling operation. A retailer shall make accurate reports of all financial aspects of the type II gambling operation to the commission within the time established by the commission. The commission shall prescribe forms for this purpose. The forms prescribed under this subsection must enable a retailer to report the amount of qualified drawing profits retained by the retailer during the reporting period.

(b) As long as a retailer's receipts from the retailer's type II gambling operation remain on the premises of the retailer's tavern, the receipts may not be commingled with the receipts of the retailer's alcoholic beverage sales, food sales, and other related nongambling activities.

As added by P.L.95-2008, SEC.13. Amended by P.L.19-2011, SEC.6.

IC 4-36-5-5

Prize limits

Sec. 5. (a) The total prizes awarded for one (1) type II gambling game may not exceed five thousand dollars (\$5,000).

(b) A single prize awarded for one (1) winning ticket in a type II gambling game may not exceed five hundred ninety-nine dollars (\$599).

(c) The selling price for one (1) ticket for a type II gambling game may not exceed one dollar (\$1). Tickets sold for less than one dollar (\$1) must be sold for a price specified in section 6(b) of this chapter.

As added by P.L.95-2008, SEC.13.

IC 4-36-5-6

Minimum payouts

Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar (\$1). A type II gambling game subject to this subsection must comply with the following minimum payout percentages:

Purchase Price	Minimum Payout Percentage
\$0.10	60%
\$0.25	65%
Three (3) tickets for one dollar (\$1)	65%
\$0.50	70%

(c) A type II gambling game's payout percentage must be stated on the ticket or on the accompanying flare.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.20.

IC 4-36-5-7

Individuals prohibited from playing type II gambling games

Sec. 7. The following persons may not play or participate in any manner in a type II gambling game:

- (1) An employee of the commission.
- (2) A person less than twenty-one (21) years of age.
- (3) The retailer offering the type II gambling game.
- (4) A person employed by the retailer offering the type II gambling game.

As added by P.L.95-2008, SEC.13.

IC 4-36-6

Chapter 6. Penalties

IC 4-36-6-1

Suspension or revocation of an endorsement or license

Sec. 1. (a) The commission may suspend or revoke the endorsement or license of or levy a civil penalty against a licensee for any of the following:

- (1) Violation of a provision of this article or of a rule of the commission.
- (2) Failure to accurately account for type II gambling games.
- (3) Failure to accurately account for sales proceeds from type II gambling operations.
- (4) Commission of a fraud, deceit, or misrepresentation.
- (5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty on a licensee for each day the violation continues.

As added by P.L.95-2008, SEC.13.

IC 4-36-6-2

Civil penalties

Sec. 2. The commission may impose on a licensee the following civil penalties:

- (1) Not more than one thousand dollars (\$1,000) for the first violation.
- (2) Not more than two thousand five hundred dollars (\$2,500) for the second violation.
- (3) Not more than five thousand dollars (\$5,000) for each additional violation.

As added by P.L.95-2008, SEC.13.

IC 4-36-6-3

Other authorized disciplinary actions

Sec. 3. In addition to the penalties described in section 2 of this chapter, the commission may do all or any of the following:

- (1) Suspend or revoke an endorsement or a license issued under this article.
- (2) Lengthen a period of suspension of an endorsement or a license issued under this article.
- (3) Impose an additional civil penalty of not more than one hundred dollars (\$100) for each day a civil penalty goes unpaid.

As added by P.L.95-2008, SEC.13.

IC 4-36-6-4

Violations of the article are Class A infractions unless specified otherwise

Sec. 4. Except as provided in section 5 of this chapter, a person

who violates this article commits a Class A infraction.
As added by P.L.95-2008, SEC.13.

IC 4-36-6-5

Class A misdemeanors

Sec. 5. A person who knowingly or intentionally:

- (1) makes a false statement on an application submitted under this article;
- (2) operates a type II gambling operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this article;
- (3) permits a person less than twenty-one (21) years of age to play a type II gambling game; or
- (4) wagers or accepts a wager on a type II gambling game at a location other than a retailer's licensed premises;

commits a Class A misdemeanor.

As added by P.L.95-2008, SEC.13.

IC 4-36-6-6

Deposit of civil penalties into the enforcement and administration fund

Sec. 6. The commission shall deposit all civil penalties collected under this chapter into the enforcement and administration fund established under IC 7.1-4-10.

As added by P.L.95-2008, SEC.13.

IC 4-36-7

Chapter 7. Security

IC 4-36-7-1

Alcohol and tobacco commission responsibility for security

Sec. 1. The commission is responsible for security matters under this article. The commission may employ individuals who are necessary to carry out this chapter.

As added by P.L.95-2008, SEC.13.

IC 4-36-7-2

Commission powers concerning security

Sec. 2. The commission may do any of the following:

- (1) Investigate an alleged violation of this article.
- (2) Enter the following premises for the performance of the commission's lawful duties:
 - (A) A retailer's tavern.
 - (B) A place in which type II gambling games are being purchased, sold, manufactured, printed, or stored.
- (3) Take necessary equipment from the premises referred to in subdivision (2) for further investigation.
- (4) Obtain full access to all financial records of the alleged violator on request.
- (5) If there is a reason to believe that a violation has occurred, search and inspect the premises where the violation is alleged to have occurred or is occurring. A search under this subdivision may not be conducted unless a warrant has first been obtained by the commission. A contract entered into by the commission may not include a provision allowing for warrantless searches. A warrant may be obtained in the county in which the search will be conducted or in Marion County.
- (6) Seize or take possession of:
 - (A) papers;
 - (B) records;
 - (C) tickets;
 - (D) currency; or
 - (E) other items;

related to an alleged violation.

As added by P.L.95-2008, SEC.13.

IC 4-36-7-3

Investigations

Sec. 3. The commission shall conduct investigations necessary to ensure the security and integrity of the operation of type II gambling games under this article. The commission may conduct investigations of the following:

- (1) Retailers.
- (2) Applicants for endorsements or licenses issued under this

article.

(3) Licensed manufacturers and distributors.

(4) Employees of the commission under this article.

(5) Applicants for contracts or employment with the commission under this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-7-4

State police assistance

Sec. 4. (a) The state police department shall, at the request of the commission, provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary operations under this article.

(2) Any other assistance requested by the executive secretary of the commission and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the Indiana gaming commission and the Indiana professional licensing agency, shall upon request provide the commission with information relevant to an investigation conducted under this article.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.21; P.L.109-2015, SEC.18.

IC 4-36-8

Chapter 8. State Preemption

IC 4-36-8-1

Prohibition of unauthorized type II gambling games

Sec. 1. Type II gambling games other than those authorized by the commission under this article are not allowed in Indiana.

As added by P.L.95-2008, SEC.13.

IC 4-36-8-2

Local taxes preempted

Sec. 2. Local taxes, regardless of type, may not be imposed on the operations of the commission under this article or on the sale of type II gambling games under this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-8-3

Local governmental authority preempted

Sec. 3. (a) Local governmental authority concerning the following is preempted by the state under this article:

(1) All matters relating to the operation of type II gambling games.

(2) All matters relating to the possession, transportation, advertising, sale, manufacture, printing, storing, or distribution of type II gambling games.

(b) A county, a municipality, or another political subdivision of the state may not enact an ordinance relating to the commission's operations authorized by this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-8-4

Application of other state or local laws concerning type II gambling games do not apply to the operation of type II gambling games under this article

Sec. 4. A state or local law providing a penalty for or a restriction or prohibition against the operation of type II gambling games or the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games does not apply to the operation of type II gambling games under this article or to the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games under this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-9

Chapter 9. Type II Gambling Game Excise Tax

IC 4-36-9-1

Excise tax imposed on type II gambling games; tickets used in qualified drawings exempted

Sec. 1. (a) An excise tax is imposed on the distribution of type II gambling games in the amount of ten percent (10%) of the price paid by the retailer that purchases the type II gambling games.

(b) The excise tax imposed by this section does not apply to the distribution of tickets used in qualified drawings.

As added by P.L.95-2008, SEC.13. Amended by P.L.108-2009, SEC.22.

IC 4-36-9-2

Excise tax imposed upon distribution of type II gambling games

Sec. 2. A licensed entity distributing pull tabs, punchboards, or tip boards under this article is liable for the tax. The tax is imposed at the time the licensed entity:

- (1) brings or causes the type II gambling games to be brought into Indiana for distribution;
- (2) distributes type II gambling games in Indiana; or
- (3) transports type II gambling games to retailers in Indiana for resale by those retailers in accordance with this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-9-3

Tax collection procedures

Sec. 3. The department shall establish procedures by which each licensee must account for the following:

- (1) The tax collected under this chapter by the licensee.
- (2) The type II gambling games sold by the licensee.
- (3) The funds received for the sale of type II gambling games by the licensee.
- (4) The address of each retailer that purchased pull tabs, punchboards, or tip boards from the licensee in the previous calendar month.

As added by P.L.95-2008, SEC.13.

IC 4-36-9-4

Electronic payment

Sec. 4. A payment by a licensee to the department may not be in cash. All payments must be in the form of a check, a draft, an electronic funds transfer, or another financial instrument authorized by the department. The department may require a licensee to establish a separate electronic funds transfer account to make payments to the department.

As added by P.L.95-2008, SEC.13.

IC 4-36-9-5**Monthly remissions**

Sec. 5. All taxes imposed on a licensee under this chapter shall be remitted to the department on a monthly basis at the times and as directed by the department. The department is responsible for all administrative functions related to the receipt of funds. The department may require a licensee to file with the department reports of the licensee's receipts and transactions in the sale of type II gambling games. The department shall prescribe the form of the reports and the information to be contained in the reports.

As added by P.L.95-2008, SEC.13.

IC 4-36-9-6**Audits**

Sec. 6. The department may at any time perform an audit of the books and records of a licensee to ensure compliance with this article.

As added by P.L.95-2008, SEC.13.

IC 4-36-9-7**Deposit of taxes in the state general fund**

Sec. 7. The department shall deposit all taxes collected under this chapter in the state general fund.

As added by P.L.95-2008, SEC.13.